

COUNTY OF ERIE

LOCAL LAW INTRO. NO. 10-2011

LOCAL LAW NO. ____-2011

A Local Law to Prohibit Cyber-Bullying in Erie County

Be it enacted by the Legislature of the County of Erie as follows:

SECTION 1. LEGISLATIVE INTENT.

Bullying is a long-standing problem among school-aged children in Erie County and throughout the nation. With increasing accessibility to electronic means of communication, bullying has transformed from a predominantly school-based issue to a broader societal problem.

Researchers have demonstrated that bullying has long-term consequences. Further, bullying goes beyond the classroom to bullying on the job, on athletic teams, on college campuses and the internet.

Experts have suggested that one tool for schools to use in combatting bullying is to maintain and enforce consistent policies against bullying and harassment, including cyber-bullying. Such enforcement is not always possible if bullying occurs away from school or by a non-student.

Perpetrators of cyber-bullying are often more extreme in the threats and taunts they inflict on their victims, as they do not actually see their victim's emotional reaction to the abuse and believe that they are anonymous. Victims of cyber-bullying suffer very real and serious harm as a result of these incidents, often showing signs of depression, anxiety, social isolation, nervousness when interacting with technology, low self-esteem and declining school performance. In some cases, victims attempt or commit suicide in part because of cyber-bullying they've endured.

Several states have enacted laws criminalizing cyber-bullying. To date, the New York State Legislature has failed to take action on this problem. Erie County should not wait for New York State to act and should implement legislation to discourage and prevent cyber-bullying from occurring.

Therefore, the purpose of this law is to ban cyber-bullying in Erie County.

SECTION 2. DEFINITIONS.

As used in this article, the following terms to have the meanings indicated:

- A. County -- the County of Erie, New York.
- B. Cyber-bullying - shall mean harassment or bullying accomplished by publishing, communicating or causing a communication to be initiated or displayed through electronic means, including, but not limited to, electronic mail, internet-based communication, pager service, cell phone, or electronic text messaging.
- C. Harassment or Bullying – shall include a course of conduct or repeated creation and/or the dissemination of, any intentional written, visual, verbal, or physical act or conduct targeting at a specific other person which is severe, persistent, pervasive or repeated, and serves no legitimate purpose, and that a reasonable person under the circumstances would know could result in, and does in fact result in:
 - a) placing such other person in actual or reasonable fear of physical harm to himself or herself, or to a member of such person's immediate family or a third party with whom such person is acquainted; or
 - b) placing such other person in actual or reasonable fear of damage to the property of such person or to a member of such person's immediate family or a third party with whom such person is acquainted; or
 - c) a substantial detrimental effect on such other person's physical, mental, or emotional health.

D. Minor - shall mean any natural person or individual under the age of eighteen (18).

E. Person - shall mean any natural person or individual.

F. Publishing – shall include issuing, printing, reproducing, distributing, circulating or any other means of publicizing or communicating to other individuals, including by electronic means.

G. Student – shall mean any person who is enrolled in a primary, secondary, or post-secondary educational institution located within the County.

SECTION 3. PROHIBITIONS.

No person shall engage in cyber-bullying against any minor or student ~~person~~ when such minor or student is located in the County of Erie.

SECTION 4. PENALTIES.

Any person who knowingly violates the provisions of this local law shall be guilty of an unclassified misdemeanor punishable by a fine of up to \$1,000 and/or up to one year imprisonment.

SECTION 5. APPLICABILITY.

This law shall apply to all actions occurring on or after the effective date of this law.

SECTION 6. REVERSE PREEMPTION.

This law shall be null and void on the day that statewide or federal legislation goes into effect, incorporating either the same or substantially similar provisions as are contained in this local law or in the event that a pertinent state or federal administrative agency issues and promulgates regulations preempting such action by the County of Erie. The County Legislature may determine via mere

resolution whether or not identical or substantially similar statewide legislation has been enacted for the purposes of triggering the provisions of this section.

SECTION 7. EFFECTIVE DATE.

This local law shall become effective immediately upon the filing with the Secretary of State pursuant to section 27 of the Municipal Home Rule Law.

SECTION 8. SEVERABILITY.

If any clause, sentence, paragraph, subdivision, section or part of this Local Law or the application thereof, to any person, individual, corporation, firm, partnership, entity or circumstance, shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional such order of judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this Local Law or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such judgment or order shall be rendered.

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LEGISLATOR EDWARD A. RATH III